

REMARKS/ARGUMENTS

Reconsideration and allowance in view of the following remarks are respectfully requested.

Claims 2-6, 13 and 19-23 were rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claim 1 of USP 7,071,683. In this regard, the Examiner takes the position that the claims are not patentably distinct from each other because the claims of the instant application are broader than and encompass the boundaries of claim 1 of the '683 patent. Applicant respectfully disagrees and traverses the Examiner's rejection. It is respectfully submitted that the independent claims of the present application are not *per se* broader than claim 1 of the '683 patent. Rather the claims of the two cases are directed to two different inventions and, therefore, respectively include different limitations. Indeed, claim 1 of the '683 patent includes limitations that do not read on independent claims 2, 13 and 19 of this application and present claims 2, 13 and 19 include limitations not set forth in and not obvious from claim 1 of the '683 patent.

More specifically, claim 1 of the '683 patent specifies that a supportive magnet 8 is disposed at the radial center of the second magnet member 2, has a rotation angle relative to the magnetic sensing elements that is constant and the magnetic sensing elements are symmetrical about the magnetization direction axis of the supportive magnet. Thus, as defined by claim 1 of the '683 patent, supportive magnet 8 is provided separately from the at least one main magnet 4 and applies its magnetic fluxes to magnetic sensing elements 6 irrespective of a relative turning angle. Thus, supportive magnet 8 does not reduce magnetic fluxes generated by main magnets 4 and passing through the magnetic sensing elements.

In contrast to claim 1 of the '683 patent, the invention of applicant's present claims 2, 13 and 19 is characterized by including a magnetic flux reducing means 11 that passes therethrough a part of the magnetic fluxes of the magnetic generating

means 5 and thereby reduces magnetic fluxes passing through a magnetism sensing element 7, but only when a relative turning angle is within a predetermined range. Furthermore, each of claims 2, 13 and 19 requires that the magnetic flux reducing means includes an external magnetic member made of magnetic material to pass the part of the magnetic fluxes therethrough. Claim 1 of Shimomura clearly provides that the supportive magnet 8 is disposed at a radial center of the second magnetic member contacting both portions of the second magnetic member. Thus, the supportive magnet of claim 1 of the '683 patent is not an external magnet member as claimed in the present application. Thus, the claims of the present application are not only different from claim 1 of Shimomura but define a separate patentable invention therefrom.


For all the reasons advanced above it is clear that the claims presented are not necessarily broader than claim 1 of the '683 patent and the Examiner has not established through argument or citation to evidence that the structure specifically claimed by applicants in claims 2, 13 and 19 would have been obvious to the skilled artisan from the structure recited in claim 1 of the '683 patent. In view of the foregoing, reconsideration and withdrawal of the double patenting rejection is solicited.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

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Respectfully submitted,

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